

ORIGINAL

Before the  
COPYRIGHT ROYALTY BOARD  
LIBRARY OF CONGRESS  
Washington, D.C

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In the Matter of )

)  
Distribution of DART Sound Recordings )  
Fund/Sound Copyright Owners' and Featured )  
Artists' Subfunds Royalties )  
For 2005 )

Docket No. 2006-4 CRB DD 2005

**MOTION OF THE ALLIANCE OF ARTIST AND RECORDING COMPANIES  
TO DISMISS SOUND RECORDING COPYRIGHT OWNER'S AND FEATURED  
ARTIST'S SUBFUND CLAIMS**

The Alliance of Artists and Recording Companies ("AARC") is a non-profit organization formed to administer Audio Home Recording Act of 1992 ("AHRA") royalties for featured recording artists and sound recording copyright owners, as authorized by artists and sound recording copyright owners. AARC is the leading common agent representing featured recording artists and record companies in AHRA proceedings.

AARC currently represents over 67,000 featured recording artists and over 400 record companies, which collectively constitute over 6,300 record labels. AARC is an Interested Copyright Party ("ICP") in AHRA proceedings. Pursuant to the AHRA, an ICP is any association or other organization that represents sound recording copyright owners or featured recording artists. 17 U.S.C. § 1001(7)(D) (1992). As it has done every year since the inception of AHRA, AARC filed two claims on February 28, 2006, one for its featured recording artists and the other for record company participants. Seventeen other individual claimants,<sup>1</sup> not including AARC, also filed for

<sup>1</sup> All claimants except Mr. Mazique and Ms. C'Ella Jones have withdrawn their claims, signed on with AARC, settled with AARC or have been dismissed. Ms. Jones' claim is baseless and, therefore, AARC will be filing a motion with the CRB to dismiss her claim.

the sound recording copyright owners' subfund and the featured artists' subfund royalties.<sup>2</sup> Mr. Mazique was one of those claimants who happened to file in both subfunds ("Mazique Claims").

AARC has made numerous unsuccessful attempts to engage Mr. Mazique in negotiations in order to settle his claims and enable the Sound Recordings Fund to proceed to the distribution phase. Mr. Mazique, however, has refused to engage in good-faith negotiations as required by Congressional mandate and CRB procedures; instead engaging in delaying tactics and misrepresentations to the Copyright Royalty Board ("CRB"). Therefore, AARC respectfully requests that the Mazique Claims be dismissed for failure to comply with procedural requirements that he engage in good-faith settlement negotiations.

### **BACKGROUND**

The AHRA requires manufacturers or importers of digital audio recording devices and media, distributed within the United States, to submit quarterly and annual statements of account, along with royalty payments as defined in the statute. 17 U.S.C. § 1003(c)(1) (2006). These royalty payments must be used to compensate the ICPs, namely sound recording copyright owners, featured recording artists, songwriters and publishers. 17 U.S.C. § 1006(a) (2006). The AHRA mandates that the royalties be divided into two funds: the Sound Recordings Fund and Musical Works Fund. These two funds are further subdivided. The Sound Recording Fund is split into a copyright owners' subfund and a featured recording artists' subfund,<sup>3</sup> while the Musical Works

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<sup>2</sup> Under 37 C.F.R. § 360.22 (b) (6) (2006), to establish a basis for his claim, Mr. Mazique is required to identify, "at least one . . . sound recording legally embodied in a digital or analog musical recording," for which, under Section 106(1) of the United States Copyright Law, he is the owner of the exclusive right to reproduce it and which was distributed during the royalty year.

<sup>3</sup> The Sound Recording Fund also includes a nonfeatured musicians' subfund and a nonfeatured vocalists' subfund. However, the nonfeatured performers' royalties are not subject to the filing of claims or the litigation proceedings requirements to which all of the other Sound Recordings Fund and Musical Works Fund royalties are subject. Therefore, the nonfeatured performers' subfunds are not relevant to this motion.

Fund is split into a songwriters' subfund and a publishers' subfund. 17 U.S.C. § 1006(b)(1), (2) (2006).

To qualify for royalty distribution, an ICP must file a claim with the Copyright Royalty Judges ("CRJs") "[d]uring the first two months of each calendar year." 17 U.S.C. § 1007(a)(1) (2006). The allocation of royalties to the claimants in each subfund may occur in one of two ways: a universal agreement among the parties or litigation before the CRJs.<sup>4</sup> 17 U.S.C. § 1007(b), (c) (2006), *amended by* Pub. L. No. 108-419, 118 Stat. 2341 (2004). Once an ICP has filed a claim, he/she is then directed to enter into good-faith settlement negotiations with the other claimants, in an effort to promote administrative efficiency by reducing the CRB's litigation caseload. See Attachments 12-15; see also 70 Fed. Reg. 30,901, 30,901 (May 31, 2005) (specifying that settlements are encouraged.).

Mr. Mazique filed his claims for AHRA royalties on January 6, 2006. Dart Single Claims from Edward Mazique (Jan. 6, 2006) (on file with Copyright Office). In accordance with 17 U.S.C. § 1001(7)(A), (C) (2006), Mr. Mazique has claimed that he is the ICP of a sound recording entitled "Peace of Soul" CD containing "18 Tracks" and the featured recording artist for "music in life by theAltituDe." Id. As stated above, once Mr. Mazique's claims were accepted by the CRB, he became obligated to engage in settlement negotiations with the other claimants. See Attachments

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<sup>4</sup> The CRB was established by the Copyright Royalty Distribution and Reform Act of 2004, ("the Reform Act") Public Law 108-419, (now codified as 17 U.S.C. §§ 801-805), which became effective on May 31, 2004. The purpose of the Reform Act was to phase out the Copyright Arbitration Royalty Panels ("CARP") and replace the arbitrators with three permanent CRJs. 70 Fed. Reg. 30,901, 30,901 (May 31, 2005). The authority to make determinations previously held by the CARP was transferred to the CRJs. 70 Fed. Reg. 46,891 (Aug. 11, 2005). The creation of the CRB eliminated the bifurcated process that existed under the CARP structure, where the initial processing of claims, the issuance of the CARP report at the end of the hearing, and the appeal of the Librarian's acceptance or rejection of the CARP report were within the purview of the Librarian of Congress, while holding the hearing and issuing the post-hearing report were within the purview of the CARP. Under the permanent CRB structure, the CRJs, as appointed by the Librarian of Congress, are empowered to perform the initial functions previously carried out by the Copyright Office under the CARP system, as well as the CARP's duties of resolving controversies through formal hearings. The expectation is that the CRB will provide greater, efficiency and expertise than the CARP system while reducing the administrative and monetary costs of these proceedings. Id.

12-15, see also H.R. Rep. No. 108-408 (2004) (referring to the paragraph beginning with “Subsections 801(b)(7)...”); H.R. Rep. No. 103-286 (1993) S. Rep. No. 102-294 (1992); 139 Cong. Rec. S10232, S10237 (daily ed. Aug. 3, 1993) (statement of Senator DeConcini) 37 C.F.R. § 251.45(a) (2005); 70 Fed. Reg. 30,901, 30,901 (May 31, 2005); 67 Fed. Reg. 46,698, 46,698 (July 16, 2002); 60 Fed. Reg. 12251, 12252 (Mar. 6, 1995). However, Mr. Mazique's overall lack of response to AARC's attempts to engage in good-faith negotiations suggests that he is not willing to fulfill his duty.

Since April, AARC has repeatedly tried to satisfy its obligations under the CRB's regulations by attempting to contact Mr. Mazique and engage him in settlement discussions. Linda Bocchi, Executive Director of AARC, had a brief, but amiable first conversation with Mr. Mazique on April 12, 2006, during which Mr. Mazique seemed open to discussing the DART proceeding and the settlement options available to him. See Attachment 1 Affidavit of Ms. Linda Bocchi, Executive Director of AARC, to the CRB. This conversation included a description of AARC, the DART proceedings and a claimant's obligations, as well as an invitation to become a member of AARC. Id. Mr. Mazique did not offer any settlement criteria, but did express an interest in becoming a member of AARC. He requested that Ms. Bocchi send him the membership documents. Ms. Bocchi followed this phone conversation with an e-mail that reiterated her explanation of the DART process and AARC and included the AARC membership documents. See, e.g., Attachment 2 E-mail from Ms. Bocchi, Executive Director of AARC, to Mr. Mazique (Apr. 12, 2006, 19:55 EST). Unfortunately, Mr. Mazique never returned the completed forms. See, e.g., Attachment 3 E-mail from Ms. Bocchi, Executive Director of AARC to Mr. Mazique (May 1, 2006, 13:36 EST); see also Attachment 4 E-mail between Ms. Bocchi, Executive Director of

AARC, and Mr. Mazique (May 8, 2006, 21:35 EST); and Attachment 5 E-mail from Ms. Bocchi, Executive Director of AARC, to Mr. Mazique (May 16, 2006, 23:10 EST).

Since Mr. Mazique did not return the documents nor contact AARC regarding any settlement options, Ms. Bocchi regularly attempted to contact him both by telephone and email in the hopes of commencing settlement negotiations. Mr. Mazique, however, has consistently refused to return calls or e-mails, making it impossible to commence settlement discussions. Of twelve phone calls that Ms. Bocchi made to Mr. Mazique, only three consisted of anything more than leaving a message on an answering machine or with a member of Mr. Mazique's family. See Attachment 1 Affidavit of Ms. Linda Bocchi, Executive Director of AARC, to the CRB.

Moreover, Mr. Mazique has only responded to AARC's numerous e-mails on three occasions. See Attachment 6 List of E-mails Between Ms. Bocchi, Executive Director of AARC, and Mr. Mazique. Two of his e-mail responses contain merely a single sentence. See Attachment 7 E-mail from Mr. Mazique to Ms. Bocchi, Executive Director of AARC (June 15, 2006, 18:40 EST); see also Attachment 8 E-mail from Mr. Mazique to Ms. Bocchi, Executive Director of AARC (June 21, 2006, 21:19 EST). While the third e-mail is accusatory and uncooperative, not once mentioning any terms or criteria for settling the Mazique Claims. See Attachment 9 E-mail from Mr. Mazique to Ms. Bocchi, Executive Director of AARC (June 21, 2006, 17:09 EST).

Ms. Bocchi's communications have always centered on settlement, whether by signing up with AARC or reaching a settlement of the 2005 DART proceeding. On June 21, 2006, Ms. Bocchi e-mailed:

I still believe we can resolve this matter if only you would engage in good faith settlement negotiations . . . [I]t is your choice not to sign up with AARC. However, even if you opt not to sign up, you are required to engage in good faith settlement discussions. And, to settle without signing up with AARC, we have to discuss your sales.

See Attachment 10 E-mail from Ms. Bocchi, Executive Director of AARC, to Mr. Mazique (June 21, 2006, 15:40 EST).

To which Mr. Mazique responded:

I made it perfectly clear, that I am not joining AARC. I don't think giving you my titles is in my best interest . . . You want me to just settle and I am not . . . It is not in my best interests to do that [settle].

See Attachment 9 E-mail from Mr. Mazique to Ms. Bocchi, Executive Director of AARC (June 21, 2006, 17:09 EST).

Mr. Mazique's words aptly sum up his position throughout this proceeding; he just outright refuses to even discuss settlement, regardless of his obligations under the CRB regulations. Moreover, rather than engage in settlement negotiations with AARC, Mr. Mazique has focused his efforts on misrepresenting his actions to the CRB by claiming that he has been "trying to negotiate<sup>5</sup> and work out an agreement with . . . AARC," and has had "a number of discussions,<sup>6</sup> concerning the distribution of DART royalties," when he has not. See Attachment 11 Letter from Mr. Mazique to the CRB (July 17, 2006). Mr. Mazique has had minimal communication with AARC, none of which has included a discussion of settlement criteria or options. Mr. Mazique has never provided AARC with any information regarding sales for his works nor has he proposed **any** terms for settlement. Instead, he has engaged in delaying tactics; such as, telling Ms. Bocchi that he mailed back documents that he never mailed, that he would e-mail her a list of titles to check for sales that he never did, and by refusing to take her call when she tried to call him. See Attachments 1, 3-9.

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<sup>5</sup> Mr. Mazique's minimal contact with AARC does not constitute negotiations. To negotiate means to "procure or bring about a negotiation." Webster's Dictionary 1202 (2nd ed. 1979). Negotiation is defined as, "**conferring, discussing or bargaining to reach an agreement, as in a business transaction . . .**" Id. He has never provided any sales information or criteria to even begin negotiations.

<sup>6</sup> Mr. Mazique has not engaged in any settlement "discussions." "Discussion" is defined as "[t]alk or writing in which **the pros and cons of a subject are considered.**" Webster's Dictionary 523 (2nd ed. 1979). In contrast, Mr. Mazique's limited contact with AARC has amounted to little more than **refusing** to discuss settlement.

Even more egregious than his delaying tactics is the letter Mr. Mazique sent to the CRB, in which he misrepresents his actions over the past several months. There he claims to have engaged in settlement discussions which never occurred and declaring that he is “not trying to be difficult or unreasonable.” See Attachment 11. However, his behavior throughout this proceeding with regard to settlement has been undeniably “difficult” **and** “unreasonable.”

It is clear that Mr. Mazique holds blatant disregard for the DART process, particularly the settlement aspect of it and AARC’s role in the process as an opposing claimant with whom he must negotiate settlement. Mr. Mazique has remained elusive with AARC; avoiding all of AARC’s attempts at initiating settlement discussions and therefore he should be dismissed for failure to prosecute.<sup>7</sup>

## **ARGUMENT**

### **The CRJs Are Authorized to Make Precontroversy Rulings**

Prior to the commencement of a hearing, the CRJs have the power to make "any necessary procedural or evidentiary rulings." 17 U.S.C § 801(c) (2006). The rationale for allowing precontroversy rulings is to “reduce the amount of actual litigation time and thereby reduce expenses,” for the parties and the decision making body. See Introducing the Copyright Royalty Tribunal Reform Act of 1993, 139 Cong. Rec. H10973 (daily ed. Nov. 22, 1993) (statement of Rep. Hughes); see also The Copyright Royalty and Distribution Reform Act of 2003: Hearing on H.R. 1417 Before the H. Comm. on the Judiciary, 108th Cong. 7 (2003) (statement of Marybeth Peters, Register of Copyrights and Associate Librarian for Copyright Services, House Subcommittee on Courts, the Internet, and Intellectual Property. During the hearing regarding the abolishment of the CARP system, the Register of Copyrights noted that “CARP proceedings are costly. They require considerable amounts of time of Copyright Office and Library personnel who must conduct various

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phases of the proceeding, such as discovery of the parties' cases and review of the CARP's decision."'). Clearly litigation is expensive. Therefore, where a stubborn claimant, such as Mr. Mazique, refuses to engage in good-faith settlement discussions as procedurally required, a pre-controversy ruling dismissing his claim is clearly warranted.

## **II. Mr. Mazique's Claims Should Be Dismissed for Failure to Comply with Procedural Requirements that He Engage in Good-Faith Settlement Negotiations**

As outlined above, Mr. Mazique has failed to make any good-faith attempts to negotiate with other claimants in the Sound Recording Fund and so facilitate the settlement of the AHRA distribution proceeding.<sup>8</sup> See Attachments 14, 15. Instead of focusing his efforts on attempting to settle his claims, he has engaged in delaying tactics and misrepresentations to the CRB. See Section of this motion entitled "Background." His refusal to even commence good-faith settlement discussions undermines Congress' intent to have these proceedings resolved via settlement rather than litigation. S. Rep. No. 102-294 (1992); 67 Fed. Reg. 46,698, 46,698 (July 16, 2002); 60 Fed. Reg. 12251, 12252 (Mar. 6, 1995).

In the past, Congress has repeatedly emphasized the importance of the negotiation phase of the distribution process. Specifically in the Copyright Royalty Tribunal Reform Act of 1993 ("1993 Copyright Reform Act"), 17 U.S.C. § 101 (2006) et seq., which replaced the Copyright Royalty Tribunal with ad hoc CARPs, Congress underscored the need for settlement rather than litigation. It emphasized that CARPs<sup>9</sup> were intended to be used **infrequently** and only after attempts at good-faith negotiation between the parties had failed, in order to "keep administrative costs and delays to

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<sup>8</sup> All other Sound Recording Fund claimants, except for Mr. Mazique and Ms. Jones, have settled with AARC, withdrawn their claims or been dismissed. See supra text accompanying note 1. Therefore, AARC is the only claimant attempting to engage Mr. Mazique in settlement discussions.

<sup>9</sup> See supra text accompanying note 4.



a minimum.” S. Rep. No. 102-294 (1992); 139 Cong. Rec. S10232, S10237 (daily ed. Aug. 3, 1993) (statement of Sen. DeConcini supporting negotiation because it would encourage the parties to settle their disputes in the marketplace and rely less upon government involvement).

Recently, when Congress established the CRB it took the opportunity to reiterate its mandate regarding settlement negotiations. Congress directed the CRJs to encourage these settlement attempts whenever possible. 70 Fed. Reg. 30,901, 30,901 (May 31, 2005); H.R. Rep. No. 108-408 (2004) (referring to the paragraph beginning with “Subsection 801(b)(7)...”). The purpose for this objective is to minimize the need for “full-fledged” royalty distribution proceedings, which ultimately expedites resolution of distribution proceedings and, therefore, payment of royalties to the entitled parties; the ICPs. Id.

For over a decade, Congress has underscored the importance of the negotiation requirement. Even though royalty distribution models have changed over the years, Congress’ support for settlement negotiations as evidenced by the requirement that parties attempt to settle **prior** to the commencement of a hearing has remained constant. H.R. Rep. No. 108-408 (2004) (referring to the paragraph beginning with “Subsection 801(b)(7)...”); H.R. Rep. No. 103-286 (1993) S. Rep. No. 102-294 (1992); 139 Cong. Rec. S10232, S10237 (daily ed. Aug. 3, 1993) (statement of Senator DeConcini) 37 C.F.R. § 251.45(a) (2005); 70 Fed. Reg. 30,901, 30,901 (May 31, 2005); 67 Fed. Reg. 46,698, 46,698 (July 16, 2002); 60 Fed. Reg. 12251, 12252 (Mar. 6, 1995). Only if the settlement attempts fail are the parties entitled to litigate their claims. See 17 U.S.C. § 1007(a)(2) (2006); H. R. Rep. No. 108-408 (2004) (referring to the paragraph beginning with “Subsection 801(b)(7)...”); H. R. Rep. No. 103-286 (1993) (referring to the section entitled “Negotiations”). Therefore, it is undisputed that Congress mandates that all claimants have an “affirmative duty” to **contact**, and **attempt to settle** their grievances with one another. 60 Fed. Reg. 12251, 12252 (Mar.

6, 1995). The specific purpose behind this duty is to foster the subfund claimants' awareness of one another, which promotes open dialogue and active participation towards settlement. This, in the end, will avoid litigation. See 37 C.F.R. § 251.45(a) (2005); 67 Fed. Reg. 46,698, 46,698 (July 16, 2002); 60 Fed. Reg. 12251, 12252 (Mar. 6, 1995). Since, clearly Congress views settlement negotiation as a mandatory step in the process, at a minimum, the DART claimants must commence good-faith settlement discussions.

Historically, the Copyright Office<sup>10</sup> has encouraged settlement rather than litigation. It has routinely provided DART claimants with detailed descriptions of DART procedural steps and obligations. See, e.g., Attachment 12 Letter from Copyright Office to DART Claimants (Apr. 1, 1997); see also Attachment 13 E-mail from Ms. Oyewole, CRB staff, to Ms. Michaels, DART Claimant (June 10, 2005, 09:11 EST). The CRB has maintained this practice. In fact, Mr. Mazique was sent such an explanatory email on June 15, 2006, in which, Ms. Oyewole advised him that, “[a]t this point in the DART distribution process, all ICPs should make a good faith effort to negotiate a settlement to avoid a proceeding.” See, e.g., Attachment 14 Entitled, “2005 DART Claims to the Sound Recordings Fund,” E-mail from Ms. Oyewole, CRB staff, to Mr. Mazique with Attachment 15 Outline of DART Fund Claims to Distribution and Distribution Proceedings (June 15, 2006, 16:03 EST).

Despite the express Congressional mandate that all claimants must engage in good-faith negotiations with the other claimants in their subfund, and the attempts of AARC and the CRB to explain this requirement to Mr. Mazique, he continues to frustrate all attempts by AARC to commence settlement negotiations, and so thwart any chance of reaching a settlement of his claims, stating that he merely does not want to settle. See Attachment 8 E-mail from Mr. Mazique to Ms.

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<sup>10</sup> See supra text accompanying note 4.

Bocchi, Executive Director of AARC (June 21, 2006, 21:19 EST); see also Attachment 9 E-mail from Mr. Mazique to Ms. Bocchi, Executive Director of AARC (June 21, 2006, 17:09 EST).

Mr. Mazique has been highly uncooperative with AARC and his refusal to engage in settlement discussions has delayed the distribution of the royalties for all claimants within the Sound Recording Fund. He has been unresponsive to AARC's numerous emails and telephone calls. Mr. Mazique's flagrant disregard for the procedural requirements regarding settlement negotiations is unacceptable and should not be rewarded with a hearing. See id.; see also Attachment 14 Entitled, "2005 DART Claims to the Sound Recordings Fund," E-mail from Ms. Oyewole, CRB staff, to Mr. Mazique with Attachment 15 Outline of DART Fund Claims to Distribution and Distribution Proceedings (June 15, 2006, 16:03 EST).

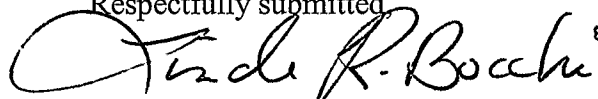
A hearing before the CRJs should be reserved for matters that are so complex they cannot be resolved through other avenues such as good-faith negotiation, and so require the CRJ's expertise to reach a resolution. To allow a recalcitrant claimant to force a hearing without even attempting good-faith negotiation would clearly be detrimental to Congress' goal of effectively and expeditiously resolving royalty proceedings. H. R. Rep. No. 108-408 (2004) (referring to the paragraph beginning with "Subsection 801(b)(7)..."); H. R. Rep. No. 103-286 (1993) S. Rep. No. 102-294 (1992); 139 Cong. Rec. S10232, S10237 (daily ed. Aug. 3, 1993) (statement of Senator DeConcini) 37 C.F.R. § 251.45(a) (2005); 70 Fed. Reg. 30,901, 30,901 (May 31, 2005); 67 Fed. Reg. 46,698, 46,698 (July 16, 2002); 60 Fed. Reg. 12251, 12252 (Mar. 6, 1995). This increases the workload of the CRJs and wastes the resources of the CRB and the other claimants who have complied with the rules. Mr. Mazique's refusal to engage in settlement negotiations damages the integrity of the royalty distribution process and harms the other claimants by delaying resolution of the proceeding and distribution of the royalties.

AARC has satisfied its obligations to engage in good faith settlement discussions by making repeated attempts to commence settlement discussions with Mr. Mazique. Meanwhile, Mr. Mazique's refusal to communicate with AARC regarding settlement options demonstrates his disregard for his regulatory obligations and the other claimants to this proceeding.

#### CONCLUSION

Mr. Mazique is obligated by CRB procedures and Congressional mandate to enter into good-faith negotiations with the other Sound Recordings Fund claimants in the 2005 AHRA proceeding. However, he has consistently evaded all attempts by AARC to commence negotiation discussions. Mr. Mazique's refusals to comply with his obligations as a claimant have unnecessarily delayed distribution of the proceeding, and so have harmed the other claimants, as well as wasted the CRB's resources. Accordingly, AARC respectfully requests that the Mazique Claims be dismissed for failure to comply with procedural requirements that he engage in good-faith settlement negotiations

Respectfully submitted



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Alliance of Artists and Recording Companies  
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July 25, 2006

MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 1**

**AFFIDAVIT OF LINDA R. BOCCHI**

In the Matter of

Distribution of DART Sound Recordings  
Fund/Featured Recording Artist Subfund Royalties  
For 2005

)  
)  
) Docket No.2006-4 CRB DD 2005  
)  
)  
)

I, Linda R. Bocchi the undersigned, declare:

1. I am the Executive Director for the Alliance of Artists and Recording Companies ("AARC"). As such, I handle all DART settlement negotiations on behalf of AARC.

2. Mr. Mazique has failed to engage in any good-faith settlement negotiations with AARC. Instead, he has engaged in delaying tactics such as promising to return paperwork and provide a list of his titles for AARC to research so that we can begin our settlement discussions, but never actually acting on his promises. After twelve phone calls and eleven e-mails, I have only been able to have three brief phone conversations with Mr. Mazique and I have received only three e-mail responses from him, of which two consisted of one sentence. Throughout this proceeding, Mr. Mazique has made it extremely difficult to reach him in-person. I have left numerous phone messages with Mr. Mazique's spouse and one message with another female in his home, yet Mr. Mazique has not returned my calls. On the three occasions I was able to get him on the phone, the conversations were generally brief. During these conversations he never once offered any settlement terms or criteria. Instead, Mr. Mazique has only stated that he refuses to settle, without any further discussion. Mr. Mazique has also promised to provide AARC with sales information related to his titles so as to commence settlement discussions. However, he has never provided the information as promised, claiming it is the responsibility of the Copyright Royalty Board, not his own, to research and compile sales information for his titles.

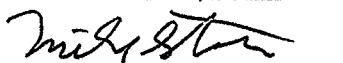
3. To the best of my knowledge, Mr. Mazique has never engaged in good-faith settlement negotiations with AARC.

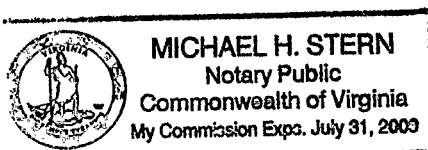
I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2006.

  
Linda R. Bocchi, Esq.  
AARC Executive Director

Sworn to before me this 25th  
day of July, 2006.

  
Notary Public  
My Commission Expires:



MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 2**



Linda Bocchi/AARC  
04/12/2006 07:55 PM

To ziquealt49@yahoo.com  
cc Mike Stern/AARC@AARC  
bcc  
Subject 2005 DART Proceeding

Also called him at  
2:49 pm this  
same day.

Dear Mr. Mazique:

It was a pleasure speaking with you today.

As I explained during our conversation, AARC has successfully collected and distributed 1992-2004 Audio Home Recording Act of 1992 ("AHRA") royalties on behalf of its participants. AARC is a nonprofit, tax exempt organization that was created by the music industry to provide featured artists and record companies with a cost-effective way to pursue their AHRA royalties. AARC is headed by a board of 15 record company executives, including representatives from the majors and Indies, and 15 artist representatives, including some of the top artist lawyers (such as Jay Cooper and Lee Phillips), managers (such as Gary Haber) and artists. Following the success of the distribution of the AHRA royalties, AARC's board expanded our mission to include foreign hometaping and rental royalties. We currently have agreements with Japan, Spain, the Netherlands, UK and Ireland. We are also in discussions with other countries. Therefore, we can ensure that you get your US and foreign hometaping and rental royalties.

The AHRA royalties proceeding is quite complicated and includes many steps:

1. Filing a timely and sufficient claim to royalty funds, in the proper format, with the Copyright Royalty Board;
2. Once the list of claimants is distributed, negotiation commences among the claimants in an attempt to reach a settlement agreement on the distribution of the funds;
3. Comments to the Copyright Royalty Board as to the existence of controversy;
4. Declaration of controversy, if universal settlement is not negotiated;
5. Filing of direct cases with the Copyright Royalty Board;
6. Scheduling and commencing discovery;
7. Arbitration before the Copyright Royalty Board with presentation of evidence and witnesses;
8. Issuing of Copyright Royalty Board's determination;
9. Publishing of Copyright Royalty Board's final determination in Federal Register;
10. Distribution of royalties to parties (if no appeals are filed with the court).

This is why the music industry banded to form AARC. Signing up with AARC is simple. I am including the forms you need to complete to sign up as an artist and the forms you need to complete to sign up as a record company (sound recording copyright owner). Once you sign up, AARC will handle all matter in the US and abroad regarding *hometaping and rental royalties*. We will handle the remainder of the 2005 proceeding and next year, we will even file your claims. That way, you don't have to worry about making (or missing) statutory deadlines.

Please review the attachments (Artist Documents: FA Auth LTR and AARC-002; Record Company Documents: RC Auth LTR and AARC -005, Tax Form: AARC-004) and visit our website [www.aarcroyalties.com](http://www.aarcroyalties.com). The attached forms are also available on our website. If you have any questions, do not hesitate to call (571-332-3487) or email me.








Please note that the Copyright Office and Copyright Royalty Board (CRB) procedural clock is ticking so the sooner you can sign up and I can advise the CRB, the sooner AARC can start representing you. Shortly, the CRB will start setting procedural deadlines that all claimants have to satisfy. AARC wants to be able to handle all of these matters for you, so you don't have to worry about them.

I look forward to hearing from you or getting your signed paperwork soon. If possible I would appreciate it



if you could fax **AND** mail the signed forms. If you don't have access to a fax, then just mail the forms back to me.

Sincerely,  
Linda

        
AARC Summary.pdf AARC Methodology.pdf FA Auth LTR.pdf AARC-002.pdf RC Auth LTR.pdf AARC-005.pdf AARC-004.pdf

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www.aarcroyalties.com

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 3**

Followup to see if  
forms had been mailed.



Linda Bocchi/AARC  
05/01/2006 01:36 PM

To ziquealt49@yahoo.com  
cc  
bcc  
Subject 2005 DART

Hi,

I'm just following up to see if you've mailed the forms back to me. When we spoke over a week ago, you said you were going to mail them in but I have not received them. I just wanted to make sure that they did not get lost in the mail. Please drop me a quick email letting me know whether you mailed them and when.

Thanks,  
Linda

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria, Virginia 22314  
703-535-8101  
703-535-8105 fax  
lbocchi@aacroyalties.com  
www.aacroyalties.com

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 4**



Linda Bocchi/AARC  
05/08/2006 09:35 PM

To ziquealt49@yahoo.com  
cc  
bcc  
Subject AARC Paperwork

*Called on May 5<sup>th</sup> (Fri)*

Hi,

When we spoke on Friday, you said that if we didn't receive your paperwork by today that I should call you. Unfortunately, we did not receive the paperwork. I called today and had a nice conversation with your wife. I told her to let you know that we had not received the paperwork. Could you tell me when you mailed them? So I can try to figure out whether you should resend them.

I hope your wife gets well soon!

Thanks,  
Linda

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria, Virginia 22314  
703-535-8101  
703-535-8105 fax  
lbocchi@aacroyalties.com  
www.aacroyalties.com

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 5**



Linda Bocchi/AARC  
05/16/2006 11:10 PM

To ziquealt49@yahoo.com  
cc  
bcc  
Subject I need to talk with you.

Phone Call made this same  
day + following day 5/17  
(No further calls made until  
6/15)

Hi,

I've been trying to contact you for several weeks now. I never received the documents you sent to me. I sent you a packet of new documents via UPS with a prepaid UPS envelope so you could return them. But I have not yet received those documents either. It's essential that you sign and return those forms to me as soon as possible to avoid putting your claims into jeopardy. I have already advised the Copyright Board that your executed forms were in the mail since you had told me this several weeks ago. I have to report back to them when I receive them.

*Please call me at (571) 332-3487 or email me a time that is good for me to call you.* I realize that you are busy but I have tried to facilitate matters for you by sending you a pre-addressed, prepaid envelope to return the forms to me. The forms are simple and just require signature and basic information such as your contact information. If you have any questions about any of the forms, I will be happy to answer them.

Sincerely,  
Linda

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria, Virginia 22314  
703-535-8101  
703-535-8105 fax  
lbocchi@aacroyalties.com  
www.aacroyalties.com

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 6**



	Who	Date	Time	Size	Subject
	Zique \\theAltituDel\	06/27/2006	12:36 PM	3,389	Re: Your obligation to engage in Good Faith Settlement Discussions
	Zique \\theAltituDel\	06/21/2006	10:18 PM	7,119	Re: I tried to call you back...Edward
	Zique \\theAltituDel\	06/21/2006	09:19 PM	2,720	I tried to call you back...Edward
	Zique \\theAltituDel\	06/21/2006	09:10 PM	16,923	Fw: Your obligation to engage in Good Faith Settlement Discussions
	Zique \\theAltituDel\	06/21/2006	06:27 PM	12,637	Re: Your obligation to engage in Good Faith Settlement Discussions
	Zique \\theAltituDel\	06/21/2006	05:09 PM	6,818	Re: Your obligation to engage in Good Faith Settlement Discussions
	Zique \\theAltituDel\	06/15/2006	06:40 PM	2,661	Call me please asap edward mazique
	ziquealt49	06/21/2006	03:40 PM	3,922	Your obligation to engage in Good Faith Settlement Discussions
	ziquealt49	05/16/2006	11:10 PM	2,673	I need to talk with you.
	ziquealt49	05/08/2006	09:35 PM	2,077	AARC Paperwork
	ziquealt49	05/01/2006	01:36 PM	1,908	2005 DART
	ziquealt49	04/17/2006	05:32 PM	951,839	2005 DART Proceeding
	ziquealt49	04/13/2006	08:53 AM	951,806	Fw: 2005 DART Proceeding
	ziquealt49	04/12/2006	07:55 PM	947,885	2005 DART Proceeding

Preview

MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 7**



"Zique \"theAltituDe\""  
<ziquealt49@yahoo.com>  
06/15/2006 06:40 PM

To lbocchi@aacroyalties.com  
cc ziquealt49@yahoo.com  
bcc  
Subject Call me please asap edward mazique

Can you call me...ASAP...Thank you.Edward Mazique

---

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 8**



"Zique \"theAltituDe\""  
<ziquealt49@yahoo.com>  
06/21/2006 09:19 PM

To LBocchi@aarcroyalties.com  
cc ziquealt49@yahoo.com  
bcc

Subject I tried to call you back...Edward

History:

✉ This message has been replied to.

Dear Linda...I returned your call.It seems we can not  
agree on my claims.Our views are different....Edward

---

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 9**



"Zique \"theAltituDe\"  
<ziquealt49@yahoo.com>  
06/21/2006 05:09 PM

To Linda Bocchi <LBocchi@aarcroyalties.com>  
cc ziquealt49@yahoo.com  
bcc

Subject Re: Your obligation to engage in Good Faith Settlement  
Discussions

History:      This message has been replied to.

You can reach me after 5:00pm Arizona mountain time. I made it perfectly clear, that I am not joining aarc... I dont think giving you my titles is in my best interest... Shouldnt you also give me your titles also ? You want me to just settle and I am not. You are a lawyer, I am not... It is "not" in my best interest to do that... I dont appreciate things that you have mentioned or implied (stalling, misleading you, implying that my wife is a liar, etc.)... I am sorry for even mentioning these things, but this is getting ridiculous, for me and my family. All because I am protecting my rights and trying to do what is right for me... No one else is going to look out for me and my music... and I dont expect it. If I am wrong and you cant understand that, I am sorry. I will continue to keep the CRB updated as well... Thank you

--- Linda Bocchi <LBocchi@aarcroyalties.com> wrote:

> Dear Edward,  
>  
> Today I spoke with a representative of the CRB. I  
> was informed me that  
> you've given them the impression that we are in  
> settlement discussions. I  
> explained that this is not the case because of the  
> past several months you  
> have refused to return phone calls or emails. I  
> also explained that you  
> have not engaged in good faith settlement  
> discussions. Instead, you have  
> used delaying tactics like telling me you mailed  
> back documents that you  
> did not mail back and telling me you are going to  
> email me titles to check  
> for sales but failing to do so. I tried calling you  
> earlier today, and  
> your wife said you were not in. However, I know  
> that is not true since it  
> turns out you had just talked with the CRB  
> representative. I don't  
> believe it's productive to misrepresent to the CRB  
> that you are satisfying  
> your obligations when you are not doing so. This  
> further puts your claims  
> in jeopardy.  
>  
> I still believe we can resolve this matter if only  
> you would engage in  
> good faith settlement negotiations, as is required

> by the law. If you do  
> not want to sign up with AARC, then we need to  
> discuss the sales of your  
> titles. Obviously, I continue to believe AARC can  
> provide you a valuable  
> service if you sign up with AARC. Especially since  
> we can represent you  
> with regard to homotaping royalties both in the US  
> and in foreign  
> countries.  
>  
> Nonetheless, it is your choice not to sign up with  
> AARC. However, even if  
> you opt not to sign up, you are required to engage  
> in good faith  
> settlement discussions. And, to settle without  
> signing up with AARC, we  
> have to discuss your sales.  
>  
> I am happy to call you so we can talk, if you email  
> me a time when you are  
> available. I will continue to report to the CRB on  
> the status of my  
> attempts to contact you. However, if I do not  
> receive titles from you by  
> the end of the week so we can engage in good faith  
> settlement discussions,  
> I will be forced to move to have your claims  
> dismissed for failure to  
> satisfy your statutory obligations.  
>  
> I hope to talk with you soon.  
>  
> Linda  
>  
>  
> Linda R. Bocchi  
> Executive Director  
> Alliance of Artists and Recording Companies  
> 700 North Fairfax Street  
> Suite 601  
> Alexandria, Virginia 22314  
> 703-535-8101  
> 703-535-8105 fax  
> lbocchi@aarcroyalties.com  
> www.aarcroyalties.com  
>  
> Confidentiality Notice:  
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> immediately so that we  
> can arrange for its delivery to the proper person.  
>  
>



>

---

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 10**

Called on 6/20 + 6/21 (x2)



Linda Bocchi/AARC  
06/21/2006 03:40 PM

To ziquealt49@yahoo.com  
cc  
bcc  
Subject Your obligation to engage in Good Faith Settlement Discussions

Dear Edward,

Today I spoke with a representative of the CRB. I was informed me that you've given them the impression that we are in settlement discussions. I explained that this is not the case because of the past several months you have refused to return phone calls or emails. I also explained that you have not engaged in good faith settlement discussions. Instead, you have used delaying tactics like telling me you mailed back documents that you did not mail back and telling me you are going to email me titles to check for sales but failing to do so. I tried calling you earlier today, and your wife said you were not in. However, I know that is not true since it turns out you had just talked with the CRB representative. I don't believe it's productive to misrepresent to the CRB that you are satisfying your obligations when you are not doing so. This further puts your claims in jeopardy.

I still believe we can resolve this matter if only you would engage in good faith settlement negotiations, as is required by the law. If you do not want to sign up with AARC, then we need to discuss the sales of your titles. Obviously, I continue to believe AARC can provide you a valuable service if you sign up with AARC. Especially since we can represent you with regard to hometaping royalties both in the US and in foreign countries.

Nonetheless, it is your choice not to sign up with AARC. However, even if you opt not to sign up, you are required to engage in good faith settlement discussions. And, to settle without signing up with AARC, we have to discuss your sales.

I am happy to call you so we can talk, if you email me a time when you are available. I will continue to report to the CRB on the status of my attempts to contact you. However, if I do not receive titles from you by the end of the week so we can engage in good faith settlement discussions, I will be forced to move to have your claims dismissed for failure to satisfy your statutory obligations.

I hope to talk with you soon.

Linda

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria, Virginia 22314  
703-535-8101  
703-535-8105 fax  
lbocchi@aarcroyalties.com  
www.aarcroyalties.com

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MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 11**

① Hello. I, Edward W. Mazique  
am sending this letter **RECEIVED**  
CRB.

JUL 17 2006

CCAS  
7/15/06  
CRED

I have sent this letter to  
notify the CRB that I am having  
a difficult time, trying to negotiate  
and work out an agreement with  
another ICP, AARC, who is, I believe  
represented by Linda Bocchi...


We have had a number of  
discussions, concerning the distribution  
of DART royalties. We always  
disagree about who is entitled  
to the royalties and factors determine  
who is eligible. I have not been  
approach or contacted by any of the  
other ICP's involved in the claims.

I don't know where they stand  
on these issues. I do know that,  
me and Linda Bocchi are not —

② seeing eye to eye and are in total disagreement with the issues concerning who is entitled to the funds and how they should be distributed.

I will listen to any advice or instruction, on what needs to be done to resolve this problem. I felt I had to send this letter to continue the progress of these negotiations, without further delay. I am not trying to be unreasonable or difficult, I am just trying to make sure I receive what I believe I am entitled to. I am an independent party/artist/copyright owner/writer/publisher... I am not familiar with how I should proceed from this point. If I am required to submit the basis of my claim, I will do so.

③

As I have Stated, I am  
Not trying to be difficult or unreasonable.  
I will and I have no problem,  
Cooperating with any and all parties  
Involved, to try to negotiate, settle  
or come to some sort of fair  
agreement about the distribution  
of these funds. I have spent a  
great deal of time reading, the laws,  
regulations that are involved in this  
process (including reforms, attachments etc. I  
have strong feelings on what I am  
entitled to and just want to be  
treated fair, like the other ICP's,  
I am sure... Please notify me  
of the next step in this process.  
I appreciate your time and  
patience... Sincerely EDWARD W. MAZIOUE  


MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 12**



April 1, 1997



Dear 1996 DART Claimant:

The Copyright Office is sending each claimant a list of those individuals who filed a claim to the 1996 DART royalties, and a copy of the regulations that govern the Copyright Arbitration Royalty Panels (CARP), if so indicated.

LIBRARY  
OF  
CONGRESS

The regulations govern the distribution process. While the Copyright Office does not make a determination on how to distribute the funds among the various claimants, it does administer the process to insure all parties comply with the regulations.

Each distribution proceeding has many phases, and may or may not require a hearing before an arbitration proceeding. If all claimants can agree on the distribution of the funds, the parties file a notice of universal settlement with the Office and a request for a full distribution of the royalties in the settled subfund. If, however, the claimants in a subfund cannot agree on the distribution of the royalties, the parties proceed to arbitration. To give you some understanding of the entire process which may occur, I have outlined the major steps in the proceedings, citing applicable statutory and regulatory provisions.

P.O. Box 70977  
Southwest  
Station  
Washington  
D.C. 20024

1. Filing a claim to each appropriate subfund at the proper time and in the proper format. 17 U.S.C. 1007(a)(1); 37 CFR 251.71(a), 259.2 and 259.3.
2. Negotiation among the claimants in a subfund in an attempt to reach a settlement agreement on the distribution of the funds. 17 U.S.C. 1007(a)(2); 37 CFR 251.45(a).
3. Comments to the Copyright Office as to the existence of controversy. 17 U.S.C. 1007(b); 37 CFR 251.45(a).
4. Filing a Notice of Intent to Participate in the CARP proceedings. 17 U.S.C. 802(d); 37 CFR 251.45(a).
5. Establishment of a schedule for the precontroversy period and a date certain for the initiation of the CARP proceedings. 17 U.S.C. 802(d); 37 CFR 251.45(b).
6. Commencement of the precontroversy discovery period according to the schedule. (File direct cases and exchange underlying documents). 17 U.S.C. 802(d); 37 CFR 251.45(b).
7. Declaration of controversy and initiation of the arbitration panel. 17 U.S.C. 803(d) and 1007(c); 37 CFR 251.72.

8. Arbitration based on evidence presented in direct cases. 17 U.S.C. 802(c), 1007(c); 37 CFR subpart E.

9. Presentation of the arbitration panel's report to the Librarian. 17 U.S.C. 802(e); 37 CFR 251.53.

10. Adoption or rejection of the report by the Librarian, followed by an order announcing the distribution of the funds. A full distribution will be made after all appeals are resolved. 17 U.S.C. 802(f); 37 CFR 251.56 and 251.57.

The regulations provide a more complete explanation of your obligations and responsibilities at each phase of the proceeding.

At this point in the DART distribution process, all interested parties must engage in "good faith" negotiations and attempt to reach a settlement as to the distribution of the royalties in their subfunds. (step 2, rule 251.45(a)). If negotiations fail, the Library of Congress will publish a notice in the Federal Register seeking comment on the extent of controversy and requesting that parties file Notices of Intent to Participate by a specific date. This filing is the first step towards a formal hearing before an arbitration panel.

Please address any questions or inquiries to my attention at the following address:

Copyright Arbitration Royalty Panel  
P.O. Box 70977  
Southwest Station  
Washington, DC 20024

or contact me at (202) 707-8380. I trust this information meets your present needs.

Sincerely,

*Tanya M. Sandros*  
Tanya M. Sandros  
Attorney Advisor

Enclosures: List of 1996 DART Claimants  
Regulations to first time claimants:  
Paul Terry King  
Dawn Bradley  
First Fruit Music Publishing Co.

VIA FACSIMILE:

Claimants to 1996 DART Royalties

DART CLAIMANTS - 1996

Sound Recording Fund:

Featured Artists Subfund

1. Alliance of Artists and Recording  
Companies  
1330 Connecticut Ave., N.W.,  
Suite 300  
Washington, DC 20036  
PH: (202) 775-0101  
FAX: (202) 775-7253  
Linda R. Bocchi, Executive Director
2. David Cone  
Bopp du Wopp, Inc.  
2413 Collingwood Blvd., B107  
Toledo, OH 43620  
PH: (419) 249-2615 #7
3. Attn: Don Cason  
Chairman, Gospel Music Coalition  
c/o Word, Inc.  
3319 West End Ave., Suite 200  
Nashville, TN 37203  
PH: (615) 385-9673 x93145  
FAX: (615) 269-3190
4. James Cannings  
Can Can Music  
400 2nd Avenue, Apt. 22C  
New York, NY 10010  
PH: (212) 642-8260  
FAX: (212) 725-2691

MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 13**



Print Close Window

Linda Bocchi (LBocchi@aacroyalties.com)

1:48 PM 7/14/06

To: gibeling@msn.com

Subject: Fw: The DART Process

2004 DART Proceeding

----- Forwarded by Linda Bocchi/AARC on 07/14/2006 01:39 PM -----

"Dart Claims" &lt;dartclaims@loc.gov&gt;

To &lt;the0d0ra@optonline.net&gt;

06/10/2005 09:11 AM

cc &lt;LBocchi@aacroyalties.com&gt;, "Bruce Forrest" &lt;bfor@loc.gov&gt;

Subject The DART Process

Ms. Michaels:

All claims have been submitted against the 2004 DART Sound Recordings and Musical Works Funds. I am attaching a preliminary list of interested copyright parties for the 2004 DART royalty funds and an outline of the major steps in the proceeding. While the Copyright Office does not make a determination on how to distribute the funds among the various claimants, we do administer the process to insure all parties comply with the regulations and to facilitate the proceedings.

The resolution of a distribution proceeding can be a fairly speedy process or it may become a protracted proceeding extending over a lengthy period of time. It all depends upon the claimants in the subfund.

If all claimants can agree on how to distribute the funds, the proceedings end relatively quickly. However, if the claimants cannot agree on the distribution of funds, the parties proceed to the next phase of the distribution process which entails a more formal process beginning with the submission of written direct cases, followed by discovery and motions practice. (The regulations governing these proceedings provide a comprehensive explanation of this entire process. These rules can be found on the Copyright Office website at: <http://www.copyright.gov/title37/>.)

At this point in the DART distribution process, interested parties have begun negotiations in an attempt to reach a settlement of their differences, step 2, rule 251.45(a). If the claimants reach an agreement, they will notify the Office that a settlement has been reached and submit a motion for distribution of the funds. If no agreement is reached, the distribution proceeding enters a more formal phase geared toward a hearing before the

Copyright Royalty Board. In any event, all claimants must engage in good faith negotiations in an attempt to resolve their differences during the initial phase of a proceeding.

The Office understands that Linda Bocchi of the Alliance of Artists and Recording Companies (AARC), an interested copyright party with substantial claims in the Copyright Owners and Featured Artists Subfunds, has attempted to contact each of you without success in order to engage in settlement negotiations. To initiate contact with her, please use the following information:

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria VA 22314  
(P) 703.535.8101  
(F) 703.535.8105  
[lbocchi@aarcroyalties.com](mailto:lbocchi@aarcroyalties.com)

Please be advised that each claimant is also responsible for informing the Copyright Office of any changes in his or her contact information so that interested copyright parties can obtain accurate information for the purpose of conducting settlement negotiations.

Please feel free to contact me with any questions or concerns you may have regarding your 2004 DART claims using the information listed below.

Sincerely,

Abioye E. Oyewole  
Copyright Royalty Board (CRB) Specialist  
Library of Congress  
(P) 202.707.8380  
[dartclaims@loc.gov](mailto:dartclaims@loc.gov)

MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 14**



"Dart Claims"  
<dartclaims@loc.gov>  
06/15/2006 04:03 PM

To <ziquealt49@yahoo.com>  
cc <LBocchi@aarcroyalties.com>  
bcc

Subject 2005 DART Claims to the Sound Recordings Fund

History: This message has been replied to.

June 15, 2006  
VIA EMAIL

Mr. Mazique:

All claims have been submitted against the 2005 DART Sound Recordings and Musical Works Funds. I am attaching a list of interested copyright parties ("ICP") for the 2005 DART royalty funds and an outline of the major steps of the distribution process. 37 CFR Part 351. While the Copyright Royalty Board ("Board") does not make a determination on how to distribute the funds among the various ICPs, we do administer the process to ensure all ICPs comply with the regulations and to facilitate the proceedings. The extent of the proceedings is a decision made by the ICPs.

If all ICPs in a subfund (i.e., Copyright Owners; Featured Artists; Writers; Publishers) can agree on the distribution of the funds, they will petition the Board for a full distribution of those particular funds. If, however, the ICPs cannot agree and a dispute exists, partial or no distribution may be made, and the Board will publish a notice in the Federal Register commencing a proceeding and soliciting petitions to participate. A fuller explanation of the entire process can be found in the Board regulations and the Copyright Royalty and Distribution Reform Act of 2004 (attachments). At this point in the DART distribution process, all ICPs should make a good faith effort to negotiate a settlement to avoid a proceeding.

I understand that Linda Bocchi of the Alliance of Artists and Recording Companies (AARC), an ICP with substantial claims in the Copyright Owners and Featured Artists Subfunds, has attempted to contact you without success in order to engage in settlement negotiations. You may contact her using the following information:

Linda R. Bocchi  
Executive Director  
Alliance of Artists and Recording Companies  
700 North Fairfax Street  
Suite 601  
Alexandria VA 22314  
(P) 703.535.8101  
(F) 703.535.8105  
[lbocchi@aarcroyalties.com](mailto:lbocchi@aarcroyalties.com)






You may also feel free to contact me with any questions or concerns regarding your 2005 DART claims and the distribution process using the information listed below.


Sincerely,

Abioye E. Oyewole  
CRB Program Specialist  
Copyright Royalty Board  
Library of Congress  
(P) 202.707.7658



[dartclaims@loc.gov](mailto:dartclaims@loc.gov)  CRD Reform Act 2004.pdf  CRB Regulations.pdf  List of ICPs in Sound Recordings Fund 5-10-06.wpd



 DART Proceeding-Major Steps Attachment.wpd

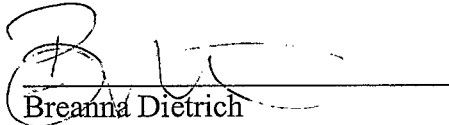
MOTION OF THE ALLIANCE OF ARTIST AND  
RECORDING COMPANIES TO DISMISS SOUND  
RECORDING COPYRIGHT OWNER AND FEATURED  
ARTIST'S SUBFUND CLAIMS  
**ATTACHMENT 15**

## **Outline of DART Fund Claims to Distribution and Distribution Proceedings**

1. Filing the claim to the royalty fund at the proper time and in the proper format;
2. Negotiation among the claimants per subfund in an attempt to reach an agreement on the distribution of the funds;
3. Comments from the interested copyright parties to the Copyright Royalty Board ("Board") as to the existence of dispute and/or petition for distribution of funds;
4. Either partial, full, or no distribution of funds based on comments in step 3;
5. If dispute exists, commencement of proceeding and solicitation of petitions to participate published in the Federal Register by the Board;
6. Voluntary negotiation period;
7. Announcement of settlement agreement or declaration of controversy by the interested copyright parties;
8. If no settlement above, filing of written direct statements and discovery;
9. Post-discovery settlement conference;
10. If no settlement, pre-hearing conference;
11. Hearings, etc.;
12. Final determination.

**CERTIFICATE OF SERVICE**

I, Breanna Dietrich, certify that on this July 25, 2006, a copy of the foregoing "Motion of the Alliance of Artists and Recording Companies to Dismiss Sound Recording Copyright Owner and Featured Artist's Subfund Claim" was served, by overnight mail, UPS, on the following party:

  
Breanna Dietrich

Edward Mazique  
8301 E. Marlena Cr. S.  
Tucson, AZ 86715